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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,138	03/06/2001	Robert Olan Keith JR.	ABREAU-00102	6011
28960	7590	06/13/2006	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			NGUYEN, CAM LINH T	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/801,138

Applicant(s)

KEITH, ROBERT OLAN

Examiner

CamLinh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4 - 15, 17 - 24, 49, 52 - 63, 65 - 73, 76 - 87, and 89 - 96 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3, 16, 25 - 48, 50, 51, 64, 74, 75, and 88 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4 - 15, 17 - 24, 49, 52 - 63, 65 - 73, 76 - 87, and 89 - 96 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/8/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office Action is response to amendment filed on 3/29/2006.
2. Applicant's amendments to claims 1 – 96 are acknowledged. Consequently, rejections to claims 1, 4 – 15, 17 – 24, 49, 52 – 63, 65 – 73, 76 – 87, and 89 – 96 under 35 U.S.C. 112, second paragraph, and rejection to claims 1, 4 – 15, 17 – 24, 49, 52 – 63, 65 – 73, 76 – 87, and 89 – 96 under double patenting are withdrawn. Claims 2, 3, 16, 25 - 48, 50, 51, 64, 74, 75, and 88 have been canceled. Currently, claims 1, 4 – 15, 17 – 24, 49, 52 – 63, 65 – 73, 76 – 87, and 89 – 96 are pending.

### ***Terminal Disclaimer***

3. The terminal disclaimer filed on 3/29/2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Application Numbers 09/800,607, 09/801,072, 09/801,076, 09/800,566, 09/799,032 and 09/801,140 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on 5/8/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4 – 15, 17 – 24, 49, 52 – 63, 65 – 73, 76 – 87, and 89 – 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wesinger Jr. et al (U.S. 5,778,367) in view of Anthony Stuart (U.S. 5,613,110).

♦ As per claims 1, 15, 25, 39, 49, 63, 73, 87,

Wesinger teaches a method of performing a research task within a searchable database comprising:

- “Utilizing a selective one or more search methodologies including keyword search, hierarchical search...” See Fig. 2H. In fig. 2H, Wesinger also allows the users multiple search methods, including:
  - Keyword search
  - Hierarchical search corresponds to categories search.
  - Parametric search corresponds to Example search. In particular:
    - “A search module” corresponds to the search engine that implemented in Fig. 1A.
    - “A search criteria” corresponds to arguments or selections that user enters in Fig. 2I- 2K.
    - “A searchable database” corresponds to database server (Fig. 1A)
    - “One or more matching items” corresponds to the results that sent to user (Fig. 2J).

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- “The search module includes keyword search” See Fig. 2H.
- “ A hierarchical search ... at any location within the searchable database”  
corresponds to “category search” because the categories include subcategories  
that organized in a hierarchical order. See Fig. 2H.

The Wesinger reference fails to disclose the dichotomous key search. However, this method search is a well known in the art. Stuart provides an example of it.

Stuart teaches that a dichotomous key search is used to search for data in the database (See Abstract).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Stuart into the invention of Wesinger because Wesinger suggested that multiple search method are available for user and the combination would reduce the memory access when using binary search, and providing user more search methodologies.

◆ As per claims 28, 53, 78, the combination of Wesinger and Stuart disclose:

- “ The search module further comprises a parametric search capability” corresponds to Example search in Fig. 2H in Wesinger.
- “ The utilized search methodology is the parametric search, the search criteria is one or more set parameters, and further wherein the parameters are set by a user” See Fig. 2K, col. 5, lines 53 – 55 of Wesinger.

◆ As per claims 4, 29, 54, the combination of Wesinger and Stuart disclose:

- “The search criteria is one or more keywords input by a user” See Fig. 2H, 2L of Wesinger.

◆ As per claims 5, 30, 64, 76, the combination of Wesinger and Stuart disclose:

- “The utilized search methodology is the hierarchical search, the search criteria is selected one of a list of one or more directory items” “A hierarchical search” corresponds to “category search” because the categories include subcategories that organized in a hierarchical order. See Fig. 2I – 2J, col. 10, lines 61 – 62 of Wesinger.
- ◆ As per claims 6, 52, 77, the combination of Wesinger and Stuart disclose:
  - “The utilized search methodology is the dichotomous key search, the search criteria is a selected one of two binary items See abstract of Stuart.
- ◆ As per claims 7, 20, 31, 44, 55, 68, 79, 92, the combination of Wesinger and Stuart disclose:
  - “The searchable database is distributed into more than one physical location” See Fig. 1A, wherein more than one databases are presented.
- ◆ As per claims 8 – 10, 17 – 19, 32 – 34, 41 – 43, 56 – 58, 65 – 67, 80 – 82, 89 – 91, the combination of Wesinger and Stuart disclose:
  - “ The steps of utilizing the search methodologies are performed by a server” See Fig. 2K, col. 5, lines 53 – 55 of Wesinger.
  - “ Establishing an Internet connection with the server to utilize the search methodologies” See Fig. 1A- 1B of Wesinger.
- ◆ As per claims 11 – 12, 21 – 22, 35 – 36, 45 – 46, 59 – 60, 69 – 70, 83 – 84, 93 – 94, the combination of Wesinger and Stuart disclose:
  - “The searchable database is formatted in a directory tree structure” See col. 10, lines 61 – 62 of Wesinger.
  - “The directory tree structure includes nodes ... branches” See col. 10, lines 61 - 65. Each category corresponds to a node. All nodes are linked together.

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- “The collection of related data for a particular node is displayed in an encyclopedia like format, wherein the encyclopedia like format includes text, graphics, and links to related topics” See Fig. 2J, col. 10, lines 65 – col. 11, lines 4 of Wesinger.

◆ As per claims 13 – 14, 23 – 24, 37 – 38, 47 – 48, 61 – 62, 71 – 72, 85 – 86, 95 – 96, the combination of Wesinger and Stuart disclose:

- “Maintaining the node by appropriately adding and deleting data to and from the node” See Fig. 2L, col. 11, lines 15 – 35 of Wesinger.
- “ The step of maintaining the node is performed by a node owner” See Fig. 2L, col. 11, lines 15 – 35 of Wesinger.

### ***Response to Arguments***

7. Applicant's arguments filed 3/29/2006 have been fully considered but they are not persuasive.

◆ Applicant argues that Wesinger does not teach that each utilization of the search module includes the availability of all types of available searches at any location within the database (page 13 of the Remark). The Examiner respectfully disagrees.

Referring to Fig. 2H, col. 5, lines 30 – 40, Wesinger teaches that the system allows the user move quickly within the WebBook by selecting different search options including go to the main page. The main page includes different search options. Therefore, at any location within the searchable database, the user can go back to the search option page and selects another option. Clearly, all the search options are always available to the user. The Applicant did not clearly claims that the search options are available without any user input or changing page. Wesinger

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teaches that the search options are available by clicking on the main menu. Therefore, the Wesinger still can be applied to the instant claims.

♦ Applicant argues that the binary search in Stuart is not a dichotomous key search as taught and claimed in the present invention (page 13 of the Remark). The Examiner respectfully disagrees.

According to the specification, Applicant defined that “A dichotomous key structure is a binary key structure”. Stuart teaches that it is well known in the art, the binary search techniques, i.e., a dichotomizing search in which at each step of the search the set of data elements being searched is divided by two (col. 3, lines 24 – 27, Stuart). In col. 9, lines 54 – 55, Stuart used this method when using the two binary searches. Therefore, the Stuart reference teaches the same teaching as claimed in the instant claims.

♦ Applicant argues that Stuart does not teach that each utilization of the search module includes the availability of all types of available searches at any location within the database (page 14 of the Remark). The Examiner respectfully disagrees.

The Examiner did not use this reference for this teaching.

♦ Applicant argues that there is no motivation to warrant the combination of Wesinger and Stuart, there is no hint, teaching or suggestion in either Wesinger or Stuart to warrant their combination (page 14 of the Remark). The Examiner respectfully disagrees.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge



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generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

♦ Applicant argues that the burden of establishing a *prima facie* case of obviousness based on the teachings of Wesinger and Stuart has not been met within the Office Action (page 15 of the Remark). The Examiner respectfully disagrees.

In response to applicant's argument on page 15, *a prima facie case of obviousness* is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. Once such a case is established, it is incumbent upon appellant to go forward with objective evidence of unobviousness. *In re Fielder*, 471 F.2d 640, 176 USPQ 300 (CCPA 1973).

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification.

#### Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 162 USPQ 541,550-51 (CCPA 1969).

♦ Applicant argues that the combination of Wesinger and Stuart does not teach that each utilization of the search module includes the availability of all types of available searches at any location within the database (page 16 - 20 of the Remark). The Examiner respectfully disagrees.

As discussed above, the Wesinger reference does disclose this limitation.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272 - 4024. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272 - 4023. The fax phone number for the organization where this application or proceeding is assigned is 571 - 273 - 8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cam-Linh Nguyen  
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FRANTZ COBY  
PRIMARY EXAMINER

LN